

# Presidential Documents

Title 3—

Proclamation 5823 of May 13, 1988

The President

National Safe Kids Week, 1988

By the President of the United States of America

## A Proclamation

During National Safe Kids Week parents, relatives, teachers, and everyone responsible for the care and safety of children should take notice of the many ways in which we can help youngsters avoid accidents and grow up safely. Children themselves should also become increasingly aware of ways to protect themselves and other young people. Each year accidents take a tragic toll of perhaps 8,000 young lives lost and 50,000 children disabled. We need to recall that we can prevent the majority of these incidents—and we need to do as much as we can about it, in homes, schools, places of work and recreation, on the highways, and throughout our communities.

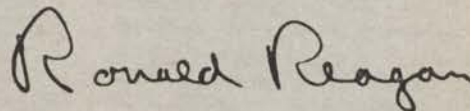
Much has been done already. Americans continue to take responsibility by exercising extra care around the house, as well as by using items such as infant and toddler car seats and seat belts, smoke detectors, flame-retardant clothing, and child-proof packaging; and emergency medical services are developing still greater capacities in the prevention of death and of serious aftereffects of injury.

As more and more of us understand that accidental injuries are avoidable, and as we act accordingly, we will substantially reduce this major source of death, disability, and injury to our hope for the future—our “safe kids.” That is a goal to which we can all look forward.

The Congress, by Senate Joint Resolution 240, has designated the period of May 16 through May 22, 1988, as “National Safe Kids Week” and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the period of May 16 through May 22, 1988, as National Safe Kids Week. I call upon the people of the United States to observe this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of May, in the year of our Lord nineteen hundred and eighty-eight, and of the Independence of the United States of America the two hundred and twelfth.



[FR Doc. 88-11142

Filed 5-13-88; 4:11 pm]

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**Editorial note:** For the President's remarks of May 13 on signing Proclamation 5823, see the *Weekly Compilation of Presidential Documents* (vol. 24, no. 19).





# Rules and Regulations

Federal Register

Vol. 53, No. 95

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

#### 8 CFR Parts 212 and 242

[INS No. 1035-88]

#### Detention and Release of Juveniles

**AGENCY:** Immigration and Naturalization Service, Justice.

**ACTION:** Final rule.

**SUMMARY:** This rule adds a new § 242.24 and revises existing § 212.5(a)(2)(ii). The purpose of this regulation is to codify Service policy regarding detention and release of juvenile aliens and to provide a single policy for juveniles in both deportation and exclusion proceedings.

**EFFECTIVE DATE:** May 17, 1988.

#### FOR FURTHER INFORMATION CONTACT:

Mary Ruth Calhoun, Detention Specialist, Immigration and Naturalization Service, 425 I Street NW., Washington, D.C. 20536, Telephone: (202) 633-4120.

#### SUPPLEMENTARY INFORMATION:

Since 1980 the Immigration and Naturalization Service has witnessed a dramatic increase in the number of juvenile aliens it encounters, particularly on the Southern border of the United States. In most cases the juvenile is not accompanied by a parent, legal guardian, or other adult relative. As with adults, the decision of whether to detain or release a juvenile depends on the likelihood that the alien will appear for all future proceedings. However, with respect to juveniles a determination must also be made as to whose custody the juvenile should be released. On the one hand, the concern for the welfare of the juvenile will not permit release to just any adult. On the other hand, the Service has neither the expertise nor the resources to conduct home studies for placement of each

juvenile released. This rule strikes a balance by providing a list of appropriate custodians while maintaining the discretion of the District Director or Chief Patrol Agent to release a juvenile to an adult other than those listed individuals in unusual and compelling circumstances.

The Immigration and Naturalization Service published a notice of proposed rulemaking on the Detention and Release of Juveniles in the Federal Register on October 15, 1987. Twelve comments were received in response to the proposed rule. The provisions of the proposed rule which received significant comment will be discussed separately.

The final rule amends 8 CFR Part 242 by adding a new § 242.24 dealing with detention and release of juveniles. The rule also amends 8 CFR Part 212 by revising § 212.5(a)(2)(ii) to provide that parole determinations regarding juveniles will be made pursuant to the criteria set out in § 242.24. This rule thus provides a single policy for juveniles in both deportation and exclusion proceedings.

Several commenters suggested that the list of custodians in the proposed rule is restrictive and should be expanded to include any responsible adult. The Service has attempted to provide for release to those individuals considered responsible for the juvenile's welfare. Release to others beyond these individuals on a routine basis, would require the performance of home studies for which the Service is neither adequately funded nor qualified. Furthermore, the rule permits the District Director or Chief Patrol Agent to exercise his discretion to release to a responsible adult other than those listed in unusual and compelling circumstances.

We agree with comments that the juvenile's interests are best served when the juvenile is placed in a home or shelter-care environment. In fact, the regulations contemplate placement in a shelter care facility as the preferred detention alternative. However, juveniles placed in shelter-care will still be considered to be in INS detention because of issues of payment and authorization of medical care. This preference in the regulations for shelter-care facilities is consistent with provisions of 18 U.S.C. 5035 for detention of juveniles prior to a disposition of delinquency charges.

Based on the foregoing, the Service has determined that the list of suitable custodians shall remain as listed in the proposed rule.

One commenter suggested that the use of the word "may" in § 242.24(b)(1) should be changed to "shall" to indicate that release to such adults should be a matter of course. This suggestion has been incorporated. However, to maintain the discretion of the Service on a case-by-case basis the language "unless a determination is made that the detention of such juvenile is required to secure his timely appearance before the Service or the immigration court or to ensure the juvenile's safety or that of others" has been added in the final rule.

Several commenters requested that § 242.24(b)(2) be amended to clarify that the term "adult relatives" are the same as those set out in § 242.24(b)(1)(iii). This has been clarified in the final rule.

Several commenters criticized the fact that the rule contains no guidance regarding the term "unusual and compelling circumstances." This omission was intentional. The intent of the regulation is to provide Service officials with the broadest possible discretion so that each case may be viewed based on a totality of the juvenile's circumstances. Any attempt to define the term would only serve to limit that discretion and thus limit its favorable exercise. Accordingly, this suggestion has not been adopted.

One commenter indicated confusion regarding the release of a juvenile to a detained person as set forth in § 242.24(b)(2). The intention of the rule is to provide for a simultaneous release of the juvenile and the detained adult. This point has been clarified in the final rule.

One commenter indicated that the proposed rule would require a parent or guardian who is lawfully residing in the United States to travel to a distant location far from his home to secure the juvenile's release. This was not our intention. The final rule has been amended to permit a parent or guardian seeking a juvenile's release pursuant to § 242.24(b)(1) to secure release at an INS office located near the parent's or guardian's residence when the juvenile is being detained at a distant location.

One commenter suggested that the requirement in § 242.24(b)(3) for an affidavit to be sworn before an immigration officer or a consular officer is unrelated to concerns for the child's



welfare or the child's appearance at INS proceedings and affidavits executed before a notary public should be accepted. To the contrary, this requirement is imposed for the purpose of ensuring that the INS is actually receiving the wishes of the parent or guardian. Because of the seriousness with which we view release of a juvenile to an unrelated adult, the Service is unwilling to simply rely on notarized documents for this assurance.

One commenter indicated that the proposed rule does not provide prompt notice to juveniles of restrictions on their release. The INS is developing a simplified form for this purpose which will be provided within twenty-four (24) hours of arrest to each juvenile apprehended who has not been released.

One commenter suggested that the proposed rule failed to consider the court's order in *Perez-Funez v. District Director, INS*, 619 F. Supp. 656 (D.C. Cal. 1985). In that case, the court ordered the Service to provide access to telephones and (except for class members residing permanently in Mexico or Canada) ensure that the class member has in fact communicated by telephone or otherwise, with a parent, close adult relative, friend, or a free legal services organization prior to presentation of the voluntary departure form. The proposed rule provided for a Notice and Request for Disposition ("Perez-Funez Advisal") be given to the juvenile upon apprehension. In order to clarify the responsibilities of the INS with respect to *Perez-Funez* class members, the language of the court's order has been incorporated in the final rule.

Several commenters requested the Service to consider permitting an individual or an organization to act as an intermediary between the INS and the parent, guardian, or other custodian to facilitate the release of juvenile aliens. According to the comments, parents or guardians who are unlawfully present in the United States are unwilling to come forward to the INS to secure release of the child for fear of being apprehended. This proposal raises some of the same concerns that release to any reliable adult raises, for example, the inability of the Service to perform home studies. However, while the proposal has not been incorporated into the final rule at this time, it has not been rejected. The Service will continue to consider the proposal, but it was felt that such further review should not delay publication of this final rule.

Two commenters recommended that the term "state or local juvenile facilities" not encompass "juvenile correctional facilities." The Service

shares the concern that administrative juvenile detainees not be placed in detention with convicted offenders. For this reason the Service is developing contracts with shelter-care facilities in all locations. However, in certain areas shelter-care facilities are not yet available. This may necessitate the use of a secure facility for a short term period. In all cases where this is necessary, INS juvenile detainees will not be mixed with the general population of the facility. If we were to limit the use of secure facilities at this point, the Service would be required to move juveniles to other locations in order to detain them. This would not serve the juveniles' best interest.

Two commenters suggested that the preamble to the final rule should include a statement that release of minors to parents or adult relatives is the preferred method of dealing with juvenile offenders. We agree. The paramount concern of the INS with respect to minors in custody is the welfare of the minor. In this regard it is the position of the Service that reunification of the juvenile with his or her family is in the best interest of all concerned. Accordingly, the final rule provides that the minor "shall" be released to a parent, legal guardian or adult relative "unless a determination is made that the detention of such juvenile is required to secure his timely appearance before the Service or the immigration court or to ensure the juvenile's safety or that of others." Thus, under the final rule reunification represents Service policy, with detention being the exception.

One commenter questioned the nature of the agreement to be signed by the designated adult. The agreement is a written statement made under oath that the adult will care for the juvenile and ensure the juvenile's presence at all future proceedings before the Service or the immigration court. This agreement may, in any given case, be required to be accompanied by an appearance bond.

Another commenter requested that the final rule incorporate standards of detention and other conditions of confinement for juvenile detainees. Standards of confinement are beyond the scope of this particular rule which is limited to processing and release. However, the Service has developed standards of confinement which are incorporated in its contracts for shelter-care facilities.

Finally, one commenter suggested that the position of "juvenile coordinator" be outside the supervision of the Enforcement Branch. This strictly administrative decision is outside the

scope of the rulemaking. However, the Service is considering this recommendation in its decision.

In accordance with 5 U.S.C. 605(b) the Commissioner of the Immigration and Naturalization Service certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule is not a major rule within the definition of section 1(b) of E.O. 12291.

#### List of Subjects

##### 8 CFR Part 212

Administrative practice and procedure, Parole, Juveniles.

##### 8 CFR Part 242

Administrative practice and procedure, Aliens, Juveniles.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

#### PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

1. The authority citation for Part 212 is revised to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1182b, 1182c, 1184, 1225, 1226, 1228, 1252.

2. Section 212.5(a)(2)(ii) is revised to read as follows:

##### § 212.5 Parole of aliens into the United States.

(a) \* \* \*

(2) \* \* \*

(ii) Aliens who are defined as juveniles in 8 CFR 242.24. The district director shall follow the guidelines set forth in § 242.24(b) in determining under what conditions a juvenile should be paroled from detention.

#### PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

3. The authority citation for Part 242 is revised to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1184, 1252, 1254, 1255, 1357, 1362.

4. A new § 242.24 is added to read as follows:

##### § 242.24 Detention and release of juveniles.

(a) *Juveniles.* A juvenile is defined as an alien under the age of eighteen (18) years.



(b) *Release.* Juveniles for whom bond has been posted, for whom parole has been authorized, or who have been ordered released on recognizance, shall be released pursuant to the following guidelines:

(1) Juveniles shall be released, in order of preference, to: (i) A parent; (ii) legal guardian; or (iii) adult relative (brother, sister, aunt, uncle, grandparent) who are not presently in INS detention, unless a determination is made that the detention of such juvenile is required to secure his timely appearance before the Service or the immigration court or to ensure the juvenile's safety or that of others.

In cases where the parent, legal guardian or adult relative resides at a location distant from where the juvenile is detained, he or she may secure release at an INS office located near the parent, legal guardian, or adult relative.

(2) If an individual specified in paragraph (b)(1) of this section cannot be located to accept custody of a juvenile, and the juvenile has identified a parent, legal guardian, or adult relative in INS detention, simultaneous release of the juvenile and the parent, legal guardian, or adult relative shall be evaluated on a discretionary case-by-case basis.

(3) In cases where the parent or legal guardian is in INS detention or outside the United States, the juvenile may be released to such person as designated by the parent or legal guardian in a sworn affidavit, executed before an immigration officer or consular officer, as capable and willing to care for the juvenile's well-being. Such person must execute an agreement to care for the juvenile and to ensure the juvenile's presence at all future proceedings before the Service or an immigration judge.

(4) In unusual and compelling circumstances and in the discretion of the district director or chief patrol agent, a juvenile may be released to an adult, other than those identified in paragraph (b)(1) of this section, who executes an agreement to care for the juvenile's well-being and to ensure the juvenile's presence at all future proceedings before the INS or an immigration judge.

(c) *Juvenile Coordinator.* The case of a juvenile for whom detention is determined to be necessary should be referred to the "Juvenile Coordinator," whose responsibilities should include, but not be limited to, finding suitable placement of the juvenile in a facility designated for the occupancy of juveniles. These may include juvenile facilities contracted by the INS, state or local juvenile facilities, or other appropriate agencies authorized to

accommodate juveniles by the laws of the state or locality.

(d) *Detention.* In the case of a juvenile for whom detention is determined to be necessary, for such interim period of time as is required to locate suitable placement for the juvenile, whether such placement is under paragraph (b) or (c) of this section, the juvenile may be temporarily held by INS authorities or placed in any INS detention facility having separate accommodations for juveniles.

(e) *Refusal of release.* If a parent of a juvenile detained by the INS can be located, and is otherwise suitable to receive custody of the juvenile, and the juvenile indicates a refusal to be released to his/her parent, the parent(s) shall be notified of the juvenile's refusal to be released to the parent(s), and shall be afforded an opportunity to present their views to the district director, chief patrol agent or immigration judge before a custody determination is made.

(f) *Notice to parent of application for relief.* If a juvenile seeks release from detention, voluntary departure, parole, or any form of relief from deportation, where it appears that the grant of such relief may effectively terminate some interest inherent in the parent-child relationship and/or the juvenile's rights and interests are adverse with those of the parent, and the parent is presently residing in the United States, the parent shall be given notice of the juvenile's application for relief, and shall be afforded an opportunity to present his or her views and assert his or her interest to the district director or immigration judge before a determination is made as to the merits of the request for relief.

(g) *Voluntary departure.* Each juvenile apprehended in the immediate vicinity of the border who resides permanently in Mexico or Canada, shall be informed, prior to presentation of the voluntary departure form, that he or she may make a telephone call to a parent, close relative, a friend, or to an organization found on the free legal services list. Each other juvenile apprehended shall be provided access to a telephone and must in fact communicate with either a parent, adult relative, friend, or with an organization found on the free legal services list prior to presentation of the voluntary departure form. If the juvenile, of his or her own volition, asks to contact a consular officer, and does in fact make such contact the requirements of this section are satisfied.

(h) *Notice and Request for Disposition.* When a juvenile alien is apprehended, he or she must be given a Notice and Request for Disposition. If the juvenile is under fourteen years of age or unable to understand the notice,

the notice shall be read and explained to the juvenile in a language the juvenile understands. In the event a juvenile who has requested a hearing pursuant to the Notice subsequently decides to accept voluntary departure, a new Notice and Request for Disposition shall be given to, and signed by the juvenile.

Date: May 10, 1988.

Clarence M. Coster,

Associate Commissioner, Enforcement,  
Immigration and Naturalization Service.

[FR Doc. 88-11001 Filed 5-12-88; 2:30 pm]

BILLING CODE 4410-10-M

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 97

[Docket No. 88-043]

#### Commuted Traveltime Periods

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** We are amending the regulations concerning overtime services provided by employees of Veterinary Services (VS) by adding commuted traveltime allowances in Texas. A commuted traveltime allowance is the time required for a VS employee to travel from his/her dispatch point and return there from the place where he/she performs Sunday, holiday, or other overtime duty. The Government charges a fee for certain overtime services provided by VS employees and, under certain circumstances, the fee may include the cost of commuted traveltime.

**EFFECTIVE DATE:** May 17, 1988.

**FOR FURTHER INFORMATION CONTACT:** Louise Rakestraw Lothery, Assistant Director, Resource Management Staff, VS, APHIS, USDA, Room 857, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8513.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in 9 CFR, Chapter I, Subchapter D, and 7 CFR, Chapter III, require inspection, laboratory testing, certification, or quarantine of certain animals, animal products, plants, plant products, or other commodities intended for importation into, or exportation from, the United States. When these services must be provided by an employee of VS on a Sunday or holiday, or at any other time outside the VS employee's regular